

APPEAL NO. 042340  
FILED NOVEMBER 4, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 16, 2004. The hearing officer determined that the appellant's (claimant) impairment rating (IR) is zero percent, as assessed by the Texas Workers' Compensation Commission (Commission)-appointed designated doctor. The claimant appealed the hearing officer's (IR) determination, arguing that the designated doctor misapplied the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000). The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable low back injury on \_\_\_\_\_, and that the claimant reached maximum medical improvement on January 27, 2004. At issue was the claimant's IR.

The evidence reflects that the designated doctor assessed that the claimant's IR was zero percent, based on Diagnosis-Related Estimate (DRE) Lumbosacral Category I, Complaints or Symptoms. The claimant asserted that he should be assessed a five percent IR, based on DRE Lumbosacral Category II, Minor Impairment, for muscle spasms, guarding, and loss of range of motion. In response to a request for clarification from the Commission, the designated doctor stated that he stood by his rating because "[b]ased upon the clinical findings and the review of medical records, [the claimant] was correctly awarded DRE Category I for the lumbar spine."

Section 408.125(c) provides that for a claim for workers' compensation benefits based on a compensable injury that occurs on or after June 17, 2001, the report of the designated doctor shall have presumptive weight, and the Commission shall base the IR on that report unless the great weight of other medical evidence is to the contrary, and that if the great weight of the medical evidence contradicts the IR contained in the report of the designated doctor chosen by the Commission, the Commission shall adopt the IR of one of the other doctors. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.6(i) (Rule 130.6(i)) provides that the designated doctor's response to the Commission request for clarification is considered to have presumptive weight as it is part of the doctor's opinion. The hearing officer found that the zero percent IR assigned by the designated doctor was not contrary by the great weight of other medical evidence, and concluded that the claimant's IR was zero percent. Nothing in our review of the record reveals that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust.

Accordingly, no sound basis exists for us to reverse it on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701.**

---

Veronica L. Ruberto  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Thomas A. Knapp  
Appeals Judge